STATE OF ARIZONA

DEC 2 1 2000

DEPARTMENT OF INSURANCE BY

In the Matter of:	
)	No. 00A- <u>193</u> - INS
KIRK MARTIN STOCK,)	
)	CONSENT ORDER
Respondent.)	
)	

The State of Arizona Department of Insurance ("Department"), has received evidence that Kirk Martin Stock ("Respondent") violated provisions of Title 20, Arizona Revised Statutes. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true and consents to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Kirk Martin Stock ("Respondent") is, and was at all material times licensed to transact life and disability insurance as a non-resident agent, Arizona license number 80336, which license expires July 31, 2001.

COUNT I

- On July 26, 1999, Respondent was issued an Arizona non-resident agent's license.
 Respondent listed his home and business address of record as Orem, Utah.
 - 3. On or about July 31, 1999, Respondent moved to Arizona.
- 4. Respondent did not notify the Department of his change in residency, nor has he applied for an Arizona resident agent's license.
- 5. In or around April 2000, Respondent began doing business as "The Eagle Benefits Group". Respondent has not filed the name "The Eagle Benefits Group" as an assumed name.

COUNT II

- 6. On or about July 18, 2000, Respondent retained American Blast Fax to fax Respondent's advertisement for health insurance to Arizona businesses in the Phoenix metropolitan area. The advertisement was faxed to 5,800 fax numbers on four separate occasions during the period of July 18, 2000 through August 21, 2000.
- 7. On or about August 8, 2000, Respondent's health insurance advertisement was faxed to one of the Department's facsimile machines.
- 8. The advertisement included the following statements about the health plan's benefits: "\$10 Doctor Visits," "\$25 Emergency Room," "\$10 Rx Plan," "\$10 Lab/Xray/Test," "Any Doctor Any Hospital," "Unique Discount Plan Offsets Deductible Resulting in No "Out of Pocket" to You!" "Dental and Vision Included," and "Lowest Rates."
- 9. The advertisement did not disclose any exceptions, restrictions or limitations, nor did it identify the name of the insurer.
- 10. Respondent contends that he believed the Freedom Care policy, underwritten by Philadelphia American Life Insurance Company, described in the advertisement did, in fact, offer the lowest available rates for a policy of its type.

COUNT III

11. On or about September 16, 1999, Respondent prepared and submitted an application for health insurance to American National Life Insurance Company of Texas (American National) in the name of Jon Allen and family (Allen Application). The Allen Application was submitted with check number 91 in the amount of \$1,180. The check was written on Respondent's personal checking account at Wells Fargo Bank, account number 00376-85548.

- 12. The Social Security number provided on the Allen Application as that of Jon Allen was, in fact, the Social Security number of a woman living in Utah. Jon Allen is a fictitious name.
- 13. On or about September 22, 1999, American National paid \$1,417.95 in advance commissions to Respondent for the sale of the Jon Allen and family policy.
- 14. On or about September 24, 1999, Respondent's check submitted in payment with the Allen Application was returned to American National by Wells Fargo Bank with the notation "Stop Payment."
- 15. On or about October 14, 1999, Respondent issued a written statement to American National and/or Insurance of America Agency, Inc. that this was not "real business" but that he felt that his "back end account" with American National would, over the course of the next two years, more than cover his taking an advance on this policy.

COUNT IV

- 16. On or about October 5, 1999, Respondent prepared and submitted an application for health insurance to American National in the name of Mark Stock and family (Stock Application).
- 17. The Stock Application was submitted with check number 96 in the amount of \$1,106. The check was written on Respondent's personal checking account at Wells Fargo Bank, account number 00376-85548. Respondent's checking account did not contain sufficient funds to pay this check.
- 18. The Social Security number provided on the Stock Application as that of Mark Stock was, in fact, the Social Security number of a man living in Washington.
- 19. Mark Stock had no knowledge of, nor did he consent to, Respondent submitting an application for health insurance in Stock's name.

20. On or about October 14, 1999, Respondent issued a written statement to American National and/or the Insurance of America Agency, Inc. that this was not "real business" but that he felt that his "back end account" with American National would, over the course of the next two years, more than cover his taking an advance on this policy.

CONCLUSIONS OF LAW

- 1. The Director has jurisdiction over this matter..
- 2. Respondent's conduct constitutes the failure to provide written notice of a change in his residential and business address, within the meaning of A.R.S. §20-313.
- 3. Respondent's conduct constitutes the violation of, or noncompliance with, any provision of this title, or any lawful rule or order of the director, within the meaning of A.R.S. §20-316(A)(2).
- 4. Respondent's conduct constitutes presentation of a written statement containing untrue statements of material fact with respect to an application for the issuance of a policy, within the meaning of A.R.S. §20-463(A)(1)(a).
- 5. Respondent's conduct constitutes misappropriation or conversion or illegal withholding of monies belonging to policyholders, insurers, beneficiaries or others received in or during the conduct of business under the license or through its use, within the meaning of A.R.S. §20-316(A)(4).
- 6. Respondent's conduct constitutes conduct under the license showing the licensee to be incompetent or a source of injury and loss to, or repeated complaint by, the public or any insurer, within the meaning of A.R.S. §20-316(A)(7).
- 7. Respondent's conduct constitutes the transaction of insurance in this state under a name other than the real name of the individual without filing a certificate with the director identifying the name under which insurance is to be transacted, in violation of A.R.S. §20-318.

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- 8. Respondent's conduct constitutes an unfair method of competition or an unfair or deceptive act or practice in the business of insurance, within the meaning of A.R.S. \$20-442.
- Respondent's conduct constitutes the making, issuing or circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, sales material or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised, within the meaning of A.R.S. §20-443(1).
- 10. Respondent's conduct constitutes the making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in the form of a notice, circular, pamphlet, letter or poster, or in any other way, any advertisement, announcement, sales material or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading, within the meaning of A.R.S. §20-444(A).
- 11. Respondent's conduct constitutes the diversion of the monies of an insurer or other person, within the meaning of A.R.S. §20-463(A)(4)(a) and (b).
- 12. Respondent's conduct constitutes the failure to disclose exceptions, reductions and limitations affecting the basic provisions of the policy, within the meaning of A.A.C. R20-6-201(C)(2).
- 13. Respondent's conduct constitutes the failure to identify the insurer, within the meaning of A.A.C. R20-6-201(L).
- Grounds exist for the Director to suspend, revoke, or refuse to renew Respondent's 14. insurance licenses, impose a civil penalty, order restitution and/or order Respondent to cease and desist pursuant to A.R.S. §§20-316(A) and 20-316(C) and §§20-456(A) and 20-456(B)

ORDER

IT IS HEREBY ORDERED THAT:

- 1. Respondent's insurance license is revoked effective immediately upon entry of this Order.
- 2. Respondent shall pay restitution to American National Life Insurance Company of Texas in the amount of one thousand four hundred and seventeen dollars and ninety-five cents (\$1,417.95).

DATED AND EFFECTIVE this of

day of been be, 2000

CHARLES R. COHEN
Director of Insurance

1. Respondent has reviewed the foregoing Findings of Fact, Conclusions of Law and Order.

CONSENT TO ORDER

- 2. Respondent admits the jurisdiction of the Director of Insurance, State of Arizona, and admits the foregoing Findings of Fact and consents to the entry of the foregoing Conclusions of Law and Order.
- 3. Respondent is aware of his right to notice and a hearing at which he may be represented by counsel, present evidence and examine witnesses. Respondent irrevocably waives his right to such notice and hearing and to any court appeals relating to this Consent Order.
- 4. Respondent states that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, was made to him to induce him to enter into this Consent Order and that he has entered into this Consent Order voluntarily.

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1	5.	Respondent acknowledge	es that the acceptance of this Consent Orde	er by the Director is
2	solely to set	tle this matter against him a	and does not preclude any other agency, of	ficer, or subdivision
3	of this state	from instituting civil or crim	inal proceedings as may be appropriate nov	w or in the future.
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5	11-21-	00	Kill Montin	Spel
6	Date		Kirk Martin Stock License Number 80336	
7				
8		he foregoing mailed/deliver y of <u>December</u> , 2000, to:	ed	
9	Kirk Martin	Stock		
10		enefits Group		
11	Gilbert, Ariz			
12	American Na One Moody	ational Life Insurance Comp	oany of Texas	
13		X 77550-7999		
14		rican Insurance Company Stonebridge Drive		
15	P. O. Box 80 McKinney, T	80		
16		ance Company		
17		Square, Suite 1400		
18				
19	P. O. Box 48		этрапу	
20	Houston, TX	. 77210		
21				
22				
23				

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6	Kirk Martin Stock
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